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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
10/624,675	07/23/2003	Rod Berube	00167-362002	6691		
26166 75	590 09/14/2006		EXAMINER			
FISH & RICH	IARDSON P.C.		WOO, JU	LIAN W		
SMITH & NEP 1450 BROOKS	•		ART UNIT	PAPER NUMBER		
MEMPHIS, TN 38116			3731			
			DATE MAILED: 09/14/2000	DATE MAILED: 09/14/2006		

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Total Content Discount Di			Applicatio	Application No. Applicant(s)					
Julian W. Woo 3731	Office Action Summary		10/624,67	5	BERUBE ET AL.				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address → Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Batterious of time may be available under the provision of 37 CFR 113(a). In no event however, may rapply be simply feed where 13(b) MORTHS from the mailing date of this communication, and will apply and will expire 30x (5) MORTHS from the mailing date of this communication, which are the problem to become ABMORDER (5) 9.3 v. 6, 9130). Any reply received by the 0ffect leter than these months after the mailing date of this communication, even if timely filed, may reduce any centred patient in adjudent to 8 of 27 CFR 170(b). Status 1) □ Responsive to communication (s) filed on 14 July 2006. 2a) □ This action is FINAL. 2b) □ Claim(s) □ Size 8 is/are pending in the application. 4a) Of the above claim(s) 69-80 is/are withdrawn from consideration. 5i) □ Claim(s) □ Is/are allowed. 6i □ Claim(s) □ Is/are allowed. 6i □ Claim(s) □ Is/are allowed. 6i □ Claim(s) □ are subject to restriction and/or election requirement. Application Papers 9) □ The specification is objected to by the Examiner. Application Papers 9) □ The drawing(s) filed on □ Is/are: a) □ accepted or b) □ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in aboyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) □ The chain or declaration is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). 3) □ All b) □ Some * c) □ None of: 1 □ Certified copies of the priority documents have been received in Application No. 3 □ Copies of the certified copies of the priority documents have been received i			Examiner		Art Unit				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. ■ Substitution of time rays be available undat the provisions of 37 CFR 1.13(s), in one event, however, may a raply be timely filed a communication of 17 CFR 1.13(s), in one event, however, may a raply be timely filed for the provisions of 37 CFR 1.13(s), in one event, however, may a raply be timely filed or 18 to communication. ■ Falve to raply within the set or extended before of the raply with by statute, cause the application to become ABANDONED (33 U.S. € § 133). Any reply reply within the set of extended before or raply with by statute, cause the application to become ABANDONED (33 U.S. € § 133). Any reply received the set of the set of the set of the set of the communication, own if timely filed, may reduce any extended pattern of the set of the communication of the communication, own if timely filed, may reduce any extended the set of the set of the communication of the communication. 1) □ Responsive to communication(s) filed on 14 July 2006. 2a) □ This action is FINAL. 2b) □ This action is non-final. 3) □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quay/e, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) □ Claim(s) 55-59 is fare pending in the application. 4a) Of the above claim(s) 69-80 is/are withdrawn from consideration. 5) □ Claim(s) 55-59 is/are allowed. 5) □ Claim(s) 55-59 is/are Bi-194, 46 and 87 is/are rejected. 7) □ Claim(s) 55-59 is/are 81-94, 46 and 87 is/are rejected. 7) □ Claim(s) 55-59 is/are 81-94, 46 and 87 is/are rejected. 7) □ Claim(s) 55-59 is/are 81-94, 46 and 87 is/are rejected. 7) □ The drawing(s) filed on			Julian W. V	Voo	3731				
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extrinsions of time may be available under be provisioned 37 CFR 1.13(e). In no event, however, may a reply be timely filled after SX. (6) MONTHS from the mailing date of this communication of the SX. (6) MONTHS from the mailing date of this communication. Failures to may be within the site charged exhals for incident apply and will expire SX. (6) MONTHS from the mailing date of this communication. Failures to may be within the site charged exhals for eight by statistic, cause the application is became ABANDHSD 135 U.S. (2) 133. Any reply received by the Office later than the emonits after the mailing date of this communication, even if timely filled, may reduce any candid pathen than adultation in SFINAL. 2a) This action is FINAL. 2b) This action is FINAL. 2b) This action is FINAL. 2c) This action is FINAL. 2d) This action is FINAL. 4) Claim(s) 55-88 is/are pending in the application. 4) Claim(s) 55-88 is/are pending in the application. 4) Claim(s) 55-88 is/are pending in the application. 4) Claim(s) 55-59,61-68,81-84,86 and 87 is/are rejected. 7) Claim(s) 55-59,61-68,81-84,86 and 87 is/are rejected. 7) Claim(s) 55-59,61-68,81-84,86 and 87 is/are rejected. 7) The specification is objected to by the Examiner. 4) The drawing(s) filled on			pears on the	cover sheet with the c	orrespondence ad	ldress			
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12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 1 Interview Summary (PTO-413) Paper No(s)/Mail Date	11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.								
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Paper No(s)/Mail Date <u>07/23/03</u> . 6) Other:	1) Notice 2) Notice 3) Inform	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO/SB/08)		Paper No(s)/Mail Da 5) Notice of Informal P	ate				

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DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 55-68 and 81-88 in the reply filed on July 14, 2006 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 3. Claims 55, 56, 61-68, 81-84, and 87 are rejected under 35 U.S.C. 102(b) as being anticipated by Bokros (4,149,277). Bokros discloses, at least in the figures and in col. 3, lines 18-35 and col. 5, line 26 to col. 6, line 31; a tissue fastener (10 or 30) including a shaft (12) or hollow shaft (26 or 32) having a member (16 on shaft 12 or sutures on shaft 32) disposed thereon for lodging the shaft within soft tissue, a tissue engaging head (22 or 24) or a solid tissue engaging head having a maximum transverse cross-sectional length longer than the maximum transverse cross-sectional length of the shaft, and a region of the shaft being formed of a woven mesh, where the region comprises substantially an entire length of the shaft, where the shaft is hollow and defines an interior passage, where the passage is open at a distal end of the shaft (34), where the passage is closed at a distal end of the shaft (26 is closed by element 12); where the head has a flat distal surface, a toothed distal surface (where the surface is

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indented to receive element 24), and an opening in communication with the passage; and where the head is disposed at a relatively flexible region of the shaft.

- 4. Claims 55, 57, and 59 are rejected under 35 U.S.C. 102(b) as being anticipated by Homsy (4,455,690). Homsy discloses, at least in figure 1 and in col. 2, lines 4-32; a tissue fastener comprising a shaft (12) having a member (14) for lodging the shaft within soft tissue and a tissue engaging head (14 at another end of the shaft) having a maximum transverse cross-sectional length longer than a maximum transverse cross-sectional length of the shaft, and a region of the shaft being formed of a woven mesh, where the member and the head are molded onto the mesh, and where the fastener is made of polymeric material (polyamide and perflurocarbon).
- 5. Claims 55, 58, 81, and 86 are rejected under 35 U.S.C. 102(b) as being anticipated by Hausner (3,513,484). Hausner discloses, at least in the figures and in col. 1, line 62 to col. 2, line 39; a tissue fastener including a shaft (10) or hollow shaft (12) having a member or barb (24) disposed thereon for lodging the shaft within soft tissue, a tissue engaging head (14) or a solid tissue engaging head having a maximum transverse cross-sectional length longer than the maximum transverse cross-sectional length of the shaft, and a region of the shaft being formed of a woven mesh.

Allowable Subject Matter

6. Claims 60, 85 and 88 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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7. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art of record, alone or in combination, discloses a tissue fastener including, inter alia, a shaft or hollow shaft having a member disposed thereon for lodging the shaft within soft tissue, a tissue engaging head or a solid tissue engaging head having a maximum transverse cross-sectional length longer than the maximum transverse cross-sectional length of the shaft, and a region of the shaft being formed of a woven mesh, where the fastener is made from a bioabsorbable material, and where the member and the head are molded onto the mesh.

As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Conclusion

- 8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sump et al. (6,872,227) teach a tissue fastener.
- 9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian W. Woo whose telephone number is (571) 272-4707. The examiner can normally be reached Mon.-Fri., 7:00 AM to 3:00 PM Eastern Time, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Julian W. Woo

Primary Examiner

Julian W. Moo

September 11, 2006